

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING #98-19**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Applicability of sales tax to medical products.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[THE TAXPAYER], is a vendor of various medical products. The products in question consist of the following:

1. Patient protective products:

- a. Protective mitts:** designed to prevent patients from grasping intravenous or naso-gastric tubes, or from picking or scratching wounds or dressings; wrist straps can be attached to limit movement of the arm
- b. Limb holders:** used to secure wrists or ankles to a bed frame
- c. Threaded and loop end tails:** attached to the bed frame, fasten to the end of the limb holders to secure the patient
- d. Removable cuffs:** for restraint of ankles or wrists, attach to straps
- e. Chair straps:** several types provide posture control of patients in wheelchairs and secure patients in wheelchair or bed to prevent patient from getting up and falling
- f. Pelvic holders or diaper chairs:** secure patient in chair or wheelchair and provide posture or slider control by attaching to wheelchair and fastening around the torso
- g. Waist holders:** used for control and safety; secure patient in bed or wheelchair
- h. Vest restraints:** provide posture control for patients who have difficulty sitting erect; can be used on wheelchairs and beds; some with shoulder straps to restrain patients
- i. Shoulder straps for vests:** used with the vest restraints; can be attached to the bed frame
- j. Elbow and wrist immobilizers:** prevent bending of the wrist and elbow, and prevent patients from pulling out upper extremity tubes, can also be used as an IV board by cutting a hole and wrapping around the IV tube
- k. Stretcher restraints:** used on a stretcher as a body restraint for combative patients
- l. Gait belts:** used for assisted ambulation or transfer

2. Patient assist products:

- a. Telemetry holders:** hold telemetry units (transmitters that transport cardiac and other vital signs to another place) to prevent units from falling from the bed or being disconnected by patients
- b. Cervical pillows:** provide mid-cervical stabilization for recumbent patients, aid neck support and control flexion
- c. Hoyer slings:** replacement slings for a Hoyer lift (manual metal lift that lifts patients from bed to wheelchair or chair, used in hospital).
- d. Wheelchair arm rest pads:** provide cushion to wheelchair arms
- e. Bed rail protectors:** made of foam, these cover the side rails of a head board
- f. Convoluted foam or egg crate pads:** reduce pressure points under bony prominences, permit air circulation, help to reduce decubitus ulcers in long-term patients
- g. Kodel bed pads:** help to reduce friction and pressure that contribute to the formation of decubitus ulcers
- h. Spinal frames:** assists in patient positioning, can be used for assistance in holding patients during X-rays and positioning patients during spinal surgery

i. Bolster foam: attaches to spinal frame during surgery to position patients for a surgical spinal procedure

ISSUES

Whether the following items may be sold exempt from tax:

1. Patient protective products:

- a. Protective mitts
- b. Limb holders
- c. Threaded and loop end tails
- d. Removable cuffs
- e. Chair straps
- f. Pelvic holders or diaper chairs
- g. Waist holders
- h. Vest restraints
- i. Shoulder straps for vests
- j. Elbow and wrist immobilizers
- k. Stretcher restraints
- l. Gait belts

2. Patient assist products:

- a. Telemetry holders
- b. Cervical pillows
- c. Hoyer slings
- d. Wheelchair arm rest pads
- e. Bed rail protectors
- f. Convoluted foam or eggcrate pads
- g. Kodel bed pads
- h. Spinal frames
- i. Bolster foam

RULINGS

The tax treatment of the items is as follows:

1. Patient protective products:

- a. Protective mitts are subject to sales and use tax.
- b. Limb holders are subject to sales and use tax.
- c. Threaded and loop end tails are subject to sales and use tax.
- d. Removable cuffs are subject to sales and use tax.
- e. Chair straps are subject to sales and use tax.
- f. Pelvic holders or diaper chairs are exempt from tax as orthotics but only to the extent that they are not used as restraint devices.
- g. Waist holders are subject to sales and use tax.

- h. Vest restraints are exempt from tax as orthotics but only to the extent that they are not used as restraint devices.
 - i. Shoulder straps for vests are subject to sales and use tax.
 - j. Elbow and wrist immobilizers are subject to sales and use tax.
 - k. Stretcher restraints are subject to sales and use tax.
 - l. Gait belts are subject to sales and use tax.
2. Patient assist products:
- a. Telemetry holders are subject to sales and use tax.
 - b. Cervical pillows are exempt as orthotics.
 - c. Hoyer slings are subject to sales and use tax.
 - d. Wheelchair arm rest pads are subject to sales and use tax.
 - e. Bed rail protectors are subject to sales and use tax.
 - f. Convoluted foam or eggcrate pads are exempt as orthotics.
 - g. Kodel bed pads are exempt as orthotics.
 - h. Spinal frames are subject to sales and use tax.
 - i. Bolster foam is subject to sales and use tax.

ANALYSIS

Tenn. Code Ann. § 67-6-314(5) provides an exemption from sales tax of

the sale of prosthetics, orthotics, special molded orthopedic shoes, walkers, crutches, surgical supports of all kinds, and other similarly medical corrective or support appliances and devices.

A device is a prosthetic if it replaces a missing body part or augments the performance of a natural function. *Cordis Corp. v. Taylor*, 762 S.W.2d 138, 139 (Tenn. 1988). The exemption of orthotics has been applied to devices used to brace, support, or align the skeletal or muscular system. This exemption does not apply to items that serve as restraining or protective devices.

Based on the facts given and the information presented in the Taxpayer's catalog, the only items that clearly brace, support, or align the skeletal or muscular system are cervical pillows, convoluted foam or eggcrate pads, and kodel bed pads.

Although some items may be used for dual purposes, most of those in the category of "patient protective products" appear to be items that are used for restraining the patient or protecting caregivers from the patient rather than for support or medically corrective purposes. To the extent that these items are used for support rather than restraint, such as the pelvic holder, diaper chair, or vest restraints, they are exempt from sales and use tax, as provided above.

The remainder of the items are not “prosthetics, orthotics, special molded orthopedic shoes, walkers, crutches, surgical supports of all kinds, and other similarly medical corrective or support appliances and devices” and are accordingly subject to sales and use tax. Tenn. Code Ann. § 67-6-314(5).

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APPROVED: Ruth E. Johnson, Commissioner

DATE: 4-14-98